



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/811,153

03/29/2004

Zheng-Hong Lu

14657

8479

293 7590 08/17/2007
Ralph A. Dowell of DOWELL & DOWELL P.C.
2111 Eisenhower Ave
Suite 406
Alexandria, VA 22314

EXAMINER

FERGUSON, LAWRENCE D

ART UNIT

PAPER NUMBER

1774

MAIL DATE

DELIVERY MODE

08/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/811,153	Applicant(s) LU ET AL.	
	Examiner Lawrence D. Ferguson	Art Unit 1774	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 06 August 2007. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-15, 17-20, 22-26 and 30-49.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.



MILTON I. CANO
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: Applicant seeks to narrow the scope of the invention by amending claims 1, 8, 9, 10 and 14 to include "layer consisting essentially of fullerenes" or "layer consisting essentially of one of a mixture of fullerenes and inorganic materials, and a mixture of polymeric fullerenes." Additionally, Applicant seeks to narrow the scope of the invention by amending claim 13 to include "consisting of fullerenes."

Continuation of 5. Applicant's reply has overcome the following rejection(s): Obvious Double Patenting rejection over claims 1-39 of copending Application No. 11/257,393 and the Obvious Double Patenting rejection over claims 1-34 of copending Application No. 11/260,469. Applicant has filed a terminal disclaimer of Application No. 11/257,393. The terminal disclaimer filed on August 6, 2007, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Application No. 11/257,393 has been reviewed and is accepted.

Applicants arguments regarding the obvious double patenting rejection over claims 1-34 of copending Application No. 11/260,469, have been considered and the rejection is withdrawn due to a lack of the layered structure exhibiting Ohmic behavior and Applicant's arguments.

The rejection made under 35 USC 112, second paragraph over claim 48 is withdrawn due to Applicant changing its dependence to claim 47.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues Czerw and Czerw in view of Hung do not anticipate or obviate the claimed invention. Applicant argues because the subject matter has been amended to "consisting essentially of" it distinguishes over the cited references because the first layer is a pure layer of fullerenes. The amended claims have not been entered; therefore, Czerw and Czerw in view of Hung are maintained for reasons of record.

Continuation of 13. Other: The amendment after final filed August 6, 2007, is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Applicants amended a paragraph of the specification beginning at page 5, line 2 to include the limitation of "first layer consisting essentially of" and a paragraph of the specification beginning at page 5, line 12, to include the limitation of "first layer consisting essentially of". The paragraph beginning at page 5, line 21 cancelled the objected language from the previous office action; however included, "a layer comprising a light emissive material interposed between the anode electrode layer and the electron transport layer". Additionally, the added disclosure of the paragraphs beginning at page 6, line 9 and the two new paragraph following the paragraph ending at page 6, line 20, are added material which are not supported by the original disclosure.

The rejection under 35 USC 112, second paragraph is maintained for claim 47 and 49. Regarding claim 47, it remains dependent upon claim 10, which does not disclose a substrate, which claim 47 relies on. Additionally, regarding claim 49, claim 48, which it relies on does not specifically disclose an electronic device, it discloses an optoelectronic device.